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STATE PLEASE PASS TO USTR FOR C. WILSON, D. WEINER AND L. YANG

E.O. 12958: N/A
TAGS: ENRG ETRD EFIN EUN
SUBJECT: EU INDUSTRIES: CLEAN ENERGY TAX CREDITS UNFAIR

¶1. A representative from International Paper (IP) reported todaythat the European paper manufacturer's association plans to file a formal complaint with Commission officials over U.S. clean energy incentives. The Confederation of European Paper Industries (CEPI) has taken issue with tax credits IP has received for using renewable fuels at its U.S. facilities. (Note: The rep explained that the credit derives from the Safe, Accountable, Flexible, Efficient Transportation Equity Act (SAFETEA) and extended by the Emergency Economic Stabilization Act of 2008 through 2009. End note.) CEPI,which the IP rep said is dominated by the companies Stora/Enso (Sweden/Finland) and UPM (Finland), claims that IP's U.S. tax credit constitutes an unfair trade advantage.

¶2. The IP rep noted that American paper manufacturers do not compete directly in the European market: "nobody is shipping A4 (sized-paper) to Europe," and added that there is little if any competition in third markets. Further, he said that CEPI's position contradicts the EU's policy to promote the use of renewable energy sources. IP, which is a member of CEPI, recommended the association to take a "glass half-full" approach and use the U.S. tax credit to lobby for similar incentives for European industries. CEPI declined, and he expects letters to be filed with this week with Commission President Barroso, Trade Commissioner Ashton, and Competition Commissioner Kroes. (Note: It is unclear whether CEPI will complain that the credits violate WTO obligations or whether it would request a normal trade defense instrument investigation of subsidies, which might lead to the imposition of countervailing duties to offset the subsidies. We will forward CEPI letter once we receive a copy.)

¶3. According to the rep, IP has received "significant" tax credits for generating power at 15 of its U.S. mills with a fuel known as "black liquor," wood pulp mixed with small amounts of diesel. IP sells the excess power back to the grid. He added that the additional revenues from the tax credit and excess electricity have helped IP which has seen a recent drop in sales.

¶4. Comment: Although the EU has mandated that all member states must draw 20 percent of their power from renewable sources by 2020, there are few significant EU-wide incentives to promote their development and deployment. Thus, as U.S. firms begin to tap into the over $100 billion worth of green technology incentives in the recent stimulus packages, we should expect to see more complaints from European industries. Indeed, the Commission is currently investigating alleged subsidies provided through tax credits to the U.S. biodiesel industry, and has imposed provision duties offsetting subsidies provisionally calculated. A final decision is due in July 2009. In addition, the Commission was recently conducting an investigation of

alleged subsidies provided to the U.S. sodium metal industry through the provision of inexpensive renewable hydroelectric power. This case will likely settle without a decision, but the Commission had recommended imposing duties to offset the allegedly inexpensive electricity. Given that the Commission likes to be seen as the global leader on climate change,these cases in the aggregate put it an awkward position, particularly as we seek to intensify transatlantic efforts to promote green technologies.

Murray
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